

**MEDICAL LICENSING BOARD OF INDIANA
INDIANA GOVERNMENT CENTER SOUTH
402 WEST WASHINGTON STREET
ROOM W064
INDIANAPOLIS, INDIANA 46204**

MINUTES OF JULY 27, 2006

William Beeson, M.D., Secretary called the meeting to order at 9:06 a.m. and declared a quorum in accordance with IC 25-22.5.

Members Present: William Beeson, M.D., Secretary
Bharat Barai, M.D.
(arrived at 9:30 a.m.)
Navin Barot, M.D.
Thomas Akre, D.O.
Steven Huddleston, J.D., Consumer Member

Members Absent: N. Stacy Lankford, M.D., President
Worthe Holt, Jr., M.D., Vice President

Staff Present: Michael Rinebold, Board Director
Professional Licensing Agency
Jody Edens, Assistant Board Director
Professional Licensing Agency
James Schmitt, Deputy Attorney General
Office of the Attorney General
Gordon White, Deputy Attorney General
Office of the Attorney General

The Board voted to adopt the agenda and addendum as amended.

Beeson/Akre, 4/0/0

The Board voted to adopt the minutes of the June 22, 2006 meeting.

Akre/Barot, 4/0/0

PROBATIONARY APPEARANCES

The physicians listed below, appeared per their order and no other issues arose during the probationary appearance:

Mauro Agnelneri, M.D.	John Bulger, M.D.	Thomas Gellerson, M.D.
Michael Johnson, M.D.	Stephen Matthews, M.D.	Robert Mitrione, M.D.
Nancy Noel, M.D.	Timothy Pohlman, M.D.	Deborah Redd, M.D.
Jeffrey Seizys, M.D.	Andrew Wyant, M.D.	Steven Stoller, M.D.

Sally Booth, M.D. – The Board requested that Dr. Booth's supervising physician Dr. Randall appear with her at her next scheduled probation appearance. They requested that they come with an outline of his supervision plan. They requested that he have a written proposal in within the next thirty (30) days and send in his qualifications (background information). They also want him to submit a letter stating why he is the best supervisor for her and to justify the distance between their offices.

Deborah Provisor, M.D. – Dr. Provisor has requested a hearing for modification of her Probation order. The Board requested that the hearing be set for the October 2006 meeting.

The following did not appear for their scheduled probationary appearance:

Nilda Durany, M.D. Glenn Ballengee, D.O.

Let the record reflect that Mr. Huddleston was not in attendance for the following personal appearances. He was attending a settlement conference.

PERSONAL APPEARANCES

INITIAL APPLICANTS

The following scheduled personal appearances were continued:

<i>Richard Butler, M.D.</i>	<i>Jill Jacobs, M.D.</i>
<i>Cassandra Wormack, M.D.</i>	<i>Sandra Rodriguez-Rosario, M.D.</i>

Magdy Ahmad, M.D. – Dr. Ahmad appeared before the Board concerning a positive response on his initial application and was not represented by counsel.

Dr. Ahmad wrote a letter of recommendation concerning himself under another Physician's name. He understood he had permission from the other Physician to write the letter, but when the other Physician was questioned about the letter he denied writing it and denied giving permission to Dr. Ahmad to write it. Dr. Ahmad's license in PA was placed on Probation for a period of two (2) years. After Discussion the Board moved to APPROVE the applicant for licensure.

Barai/Beeson, 4/0/0

Thomas Schroeder, M.D. – Dr. Schroeder appeared before the Board concerning a positive response on his initial application and was not represented by counsel. Dr. Schroeder's license in KY is currently on Probation for alcohol problems. He is currently in Kentucky's Physician Assistance program. Dr. Fred Frick testified that Dr. Schroeder has contacted ISMA and he is willing to sign a contract with them. After discussion the Board moved to issue the applicant's license on agreed INDEFINITE PROBATION, mirroring the Kentucky probation terms and the applicant must sign a contract with ISMA. Dr. Schroeder agreed to the Probation and terms.

Beeson/Akre, 4/0/0

Evert Vanderstoep, M.D. – Dr. Vanderstoep appeared before the Board concerning information on his initial application and was not represented by counsel. Dr. Vanderstoep answered all questions on his initial application "No". The Board received information from the State of Illinois that Dr. Vanderstoep's IL license has been disciplined for practicing with a non-renewed medical license. Dr. Vanderstoep informed the Board that he had forgotten about that issue as it was ten (10) years ago. He has no malpractice issues and has never had any issues with any facilities he has practiced in. After discussion the Board moved to APPROVE the applicant for licensure.

Beeson/Barai, 4/0/0

Balaji Venkat, M.D. – Dr. Venkat appeared before the Board concerning a positive response on his initial application and was not represented by counsel. Dr. Venkat received a DUI in Pennsylvania. He had a hearing in front of the Pennsylvania and they took no action. After discussion the Board moved to APPROVE the applicant for licensure.

Beeson/Barai, 4/0/0

Mark Wilson, M.D. – Dr. Wilson appeared before the Board concerning a positive response on his initial application and was not represented by counsel. Dr. Wilson explained that a patient came in with a head injury and had been drinking. He had a laceration over his eye. The patient's wife said he fell and hit his head. The patient was held for seven (7) hours but a head CT scan was not performed.

She brought her husband back three (3) days later where she admitted she lied about how he obtained his injury. He was actually hit in the head with an object. The patient later died from his injury.

The Hospital suspended his privileges; he appealed and lost the appeal. He did not practice for three (3) years. He has attended a residency program for internal medicine and is set to take his specialty boards in November 2006. The State of Pennsylvania automatically denied his application; he appealed and had a hearing with the PA Board. They issued him a license on Probation. His probation has since been lifted. The State of North Carolina did not take any action and he has a current Tennessee license. After discussion the Board moved to APPROVE the applicant for licensure.

Barai/Beeson, 4/0/0

M. Hytham Beck, M.D. – Dr. Beck appeared before the Board concerning a positive response on his initial application and was represented by counsel. Dr. Beck explained his three (3) malpractice suits. He has never been denied Insurance and he currently does have malpractice insurance. He has a current license in Florida. After discussion the Board moved to APPROVE the applicant for licensure.

Barai/Barot, 4/0/0

RENEWAL APPLICANTS

Thomas Holt, M.D. – Dr. Hold did not appear for his scheduled personal appearance.

Chandra Anand, M.D. – Dr. Anand appeared before the Board concerning a positive response on his renewal application and was not represented by counsel. Dr. Anand informed the Board about a \$900,000 malpractice settlement. The patient was a 36 year old female he saw in the ER for lower abdominal pain. He did not do a CT scan; he indicated that the hospital was so small it was a very big deal to order a CT scan. Two (2) days later the patient went to another hospital where she died. The autopsy listed the cause of death as undetermined. His attorney told him to settle out of court or the payout would be in the millions. After discussion the Board moved to APPROVE the applicant for licensure.

Beeson/Barai, 4/0/0

Let the record reflect that Mr. Huddleston rejoined the meeting.

ADMINISTRATIVE HEARINGS

Willard Hagenmeyer, D.O., License No. 02001155A, Cause No. 2003 MLB 0030

Respondent did appear in person and was not represented by counsel regarding a Final Hearing scheduled before the Board. The State of Indiana was represented by Steven Douglas, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer Jr., with Accurate Reporting of Indiana. Sworn in to testify for the Respondent was William Stouder.

The Respondent admitted he is a recovering drug addict. In 2003 he pled guilty to writing fraudulent prescriptions for himself. His ISMA contract was cancelled due to his non-compliance. In October 2003 he went through a treatment program. He stated that he has been clean since he was released from the program; his sobriety date is December 29, 2003 although he last used narcotics in October 2003 when he entered the program. He stated he has been practicing Acupuncture on his family and friends; although it was not for gain or business. He stated that he is monitored by the Courts as he is on criminal probation. Mr. Stouder stated he has known the Respondent for about five (5) years and he is going to AA and works on his 12 steps. He has no reservations about the Respondent's recovery. After having considered the evidence presented, testimony of the witness and taking official notice of its file in this matter the Board moved to place the Respondent's license on INDEFINITE SUSPENSION.

Beeson/Huddleston, 5/0/0

Tony Mercho, M.D., License No. 01046737A, Cause No. 2006 MLB 0012

Respondent did not appear in person and was not represented by counsel regarding a Final Hearing scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer, with Accurate Reporting of Indiana.

The Respondent and Ms. Kiefner are requesting a joint continuance of this matter in order to work on a settlement agreement. After having considered the evidence presented and taking official notice of its file in this matter the Board moved to CONTINUE this matter until the August 2006 meeting.

Beeson/Barot, 4/0/1, with Dr. Barai abstaining

George R. Small Jr., M.D., License No. 01022870A, Cause No. 2006 MLB 0018

Respondent did not appear in person and was not represented by counsel regarding a Proposed Settlement Agreement scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer, with Accurate Reporting of Indiana.

A settlement agreement between the Respondent, his counsel and the Attorney General's Office was presented to the Board by Elizabeth Kiefner, Deputy Attorney General. The agreement included a LETTER OF REPRIMAND and the following terms:

- Submit a copy of the final order to any facility where he serves as medical director
- Each facility where he serves as a medical director shall issue a quarterly report to the Board addressing his professional competence, sense of responsibility, work habits, mental attitude and ability to work with others for a period of one (1) year.

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to ACCEPT the agreement.

Akre/Barot, 4/0/1, with Dr. Barai abstaining

Marvin E. Gold, M.D., License No. 01018654A, Cause No. 2006 MLB 0026

Respondent did not appear in person and was not represented by counsel regarding a Petition for Extension of Summary Suspension scheduled before the Board. The State of Indiana was represented by Steven Douglas, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer, with Accurate Reporting of Indiana.

Over a year ago Dr. Gold's license was placed on Summary Suspension. He closed his practice and then began seeing patients from his home; writing narcotic prescriptions for cash. He has been criminally charged with a Felony for writing fraudulent prescriptions. Dr Gold is in failing health and may very well be in an institution in the State of Maryland. After having considered the evidence presented and taking official notice of its file in this matter the Board moved to RENEW the SUMMARY SUSPENSION for a period of ninety (90) days.

Beeson/Barot, 4/0/0
(Dr. Barai was not in attendance for this matter)

Gabrielle F. Morris, M.D., License No. 01056847A, Cause No. 2006 MLB 0004

Respondent did not appear in person and was not represented by counsel regarding a Final Hearing scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer, with Accurate Reporting of Indiana.

The Respondent requested in writing a continuance of this matter. After having considered the evidence presented and taking official notice of its file in this matter the Board moved to CONTINUE this matter.

Beeson/Huddleston, 5/0/0

Adrienne Ray, M.D., License No. 01056635A, Cause No. 2006 MLB 0022

Respondent did not appear in person and was not represented by counsel regarding a Final Hearing scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer, with Accurate Reporting of Indiana.

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to issue a NOTICE OF PROPOSED DEFAULT.

Beeson/Barai, 5/0/0

Andrew James Desonia, D.O., License No. 02001756A, Cause No. 2006 MLB 0030

Respondent did appear in person and was represented by David Jose regarding a Petition for Summary Suspension scheduled before the Board. The State of Indiana was represented by Daniel Cavallini, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer, with Accurate Reporting of Indiana. Scott Nowland, DEA Diversion Investigator was sworn in as a witness for the State.

Dr. Desonia explained to the Board that he was not prescribing medication over the website. He was simply screening completed questionnaires to see if the patient/applicant would be eligible to receive the prescription. He stated that he understood the questionnaire and his report would then be given to the patient/applicants personal physician and the physician would then prescribe the drug. He indicated that all he was doing was screening the completed questionnaires. He also indicated that he was only getting paid \$2.00 per survey. The websites he worked for were Pillnetwork.com and efbckoffice.com. He also has a MI license.

Mr. Nowland testified that he and a couple other DEA agents met with Dr. Desonia at his home on September 21, 2005. They delivered an Order to Show Cause issued by the Texas DEA Office. Mr. Nowland testified that Dr. Desonia admitted to them that he approved the prescriptions online. He would review the questionnaire and from it decided if the patient/applicant was eligible for the prescription. If he approved it the patient/applicant would receive their prescription. Dr. Desonia gave Mr. Nowland a copy of one questionnaire. This was submitted into evidence. At the top of this questionnaire it states Dr. Desonia's prescription fee is \$20.00. He testified that Dr. Desonia stated to him and the other DEA agents that he was recruited by Hudson Smith to prescribe internet drugs through a Pharmacy network. When he approved the questionnaire; the internet Pharmacy would fill the prescription. He was initially prescribing all schedules over the website, but he decided to stop that on his own because of the danger and decided to only prescribe schedules 4 and 5 drugs such as weight loss drugs, Viagra. Mr. Nowland said that the Dr Desonia told

them that he started out making \$2.00 per prescription and was currently making \$20.00 per prescription, with the potential of making up to \$30.00 per prescription. He was approving an average of 80% and the 20% that were denied were denied because the questionnaire was not complete. Mr. Nowland stated that he has no doubt that Dr. Desonia knew he was prescribing via the internet. Mr. Nowland could not produce more documents as evidence as the Texas DEA office is under a protective order in this matter. It involves many Physicians across the United States. The Order to Show Cause presented by DEA to Dr. Desonia is for a hearing to possibly revoke his DEA. A hearing will eventually take place although with the back log of hearings it could very well be up to three (3) years before the hearing happens. The DEA agents asked Dr. Desonia to voluntarily surrender his DEA and he chose not to. At this time his DEA is current. After having considered the evidence presented and taking official notice of its file in this matter the Board moved to DENY the Summary Suspension.

Beeson/Barai, 5/0/0

Robert X. Williams III, M.D., License No. 01058219A, Cause No. 2003 MLB 0040

Respondent did not appear in person and was not represented by counsel regarding a Final Hearing scheduled before the Board. The State of Indiana was represented by Steven Douglas, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer with Accurate Reporting of Indiana.

Mr. Douglas informed the Board that the Respondent has agreed to an Indefinite Summary Suspension regarding this matter. The Respondent requested the Indefinite Summary Suspension so that he could first and foremost work on his recovery before addressing the charges. Mr. Douglas requested an Indefinite Continuance of this matter until the Respondent was through his recovery. After having considered the evidence presented and taking official notice of its file in this matter the Board moved to Extend the Summary Suspension for 30 days until the August 2006 meeting.

Huddleston/Akre, 5/0/0

De Nguyen, M.D., License No. 01031500A, Cause No. 2006 MLB 0028

Respondent did not appear in person and was not represented by counsel regarding a Petition for Summary Suspension scheduled before the Board. The State of Indiana was represented by Daniel Cavallini, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer, with Accurate Reporting of Indiana.

An agreement between the Respondent, his counsel and the Attorney General's Office was presented to the Board by Daniel Cavallini, Deputy Attorney General. The agreement included INDEFINITE SUMMARY SUSPENSION. After having

considered the evidence presented and taking official notice of its file in this matter the Board moved to ACCEPT the agreement.

Barai/Akre, 5/0/0

REVIEW OF INITIAL APPLICATIONS

The Board reviewed the positive response information on the following applicants and approved them for issuance:

Stephen Croughan, M.D.	Robert Dunn, M.D.	Anthony Jabre, M.D.
Daryl Gildenblatt, M.D.	Shashikant Kulkarni, M.D.	Paula Lange, D.O.
Joseph Polio, M.D.	Aris Urbanes, M.D.	Bruce Smith, M.D.

The Board reviewed the positive response information on the following applicants and requested that they personally appear before the Board:

Sherof Faraq, M.D.	Frederick Grois, M.D.	Richard Kennedy, M.D.
Shekar Pushpala, M.D.	Bruce Smith, M.D.	

OLD/NEW BUSINESS

P. Ryan Moe, M.D. – Request to be added to the Boards list of approved Addictionologists & Psychiatrists – The Board reviewed Dr. Moe's Curriculum Vita. After discussion the Board moved to APPROVE him to be added to the Board's list of approved Addictionologists and Psychiatrists.

Beeson/Barai, 5/0/0

DISCUSSION

LSA Document 05-92 Presentation by Mark Scherer, Indiana Association of Nurse Anesthetists – Mr. Mark Scherer and Jackie Rowles, CRNA appeared before the Board representing the Indiana Association of Nurse Anesthetists. Other Interested parties that appeared before the Board were Elizabeth Cierzniak, Baker & Daniels representing ISA.

Ms. Rowles gave each member of the Board a memorandum that included twelve (12) specific comments relating to LSA document 05-92. She requested the Board take the comments into consideration. Her specific comments are as follows:

- Sec.6.(c) Practitioners administering ~~or supervising~~, deep sedation/analgesia **and CRNAs administering deep sedation/analgesia** should be able to rescue patients who enter a state of general anesthesia.

- Sec.7.(c) Practitioners administering or supervising **RNs administering** moderate sedation/analgesia should be able to rescue patients who enter a state of deep sedation/analgesia. **CRNAs administering moderate sedation/analgesia should be able to rescue patients who enter a state of deep sedation/analgesia.**
- Sec.10.(a)...Practitioners intending to produce a given level of sedation must be able to rescue a patient whose level of sedation becomes deeper than initially intended **unless a CRNA is administering the sedation.**
- Sec.11. After January 1, 2009, a practitioner may not perform ~~or supervise~~ a procedure that requires anesthesia in an office-based setting unless the office-based setting is accredited by an accreditation agency approved by the board under this rule.
- Sec.12.(a)(3) A health care provider administering anesthesia shall be licensed, qualified and working within the provider's scope of practice. ~~In those cases in which a non physician provider administers the anesthesia, the provider must be working within the provider's scope of practice and under the supervision of a practitioner.~~
- Sec.12.(a)(4) A health care provider who **performs a procedure or who** administers anesthesia ~~or supervises the administration of anesthesia~~ in an office-based setting shall maintain current training in advanced resuscitation techniques, such as Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS). At least one person with ACLS or PALS training should be immediately available until the patient is discharged.
- Sec.12.(a)(7) The practitioner **or CRNA** administering the anesthesia ~~or supervising the administration of anesthesia~~ shall do the following:
 - (a) Perform a preanesthetic examination and evaluation.
 - (b) Develop the anesthesia plan.
 - (c) Remain physically present during the operative period and be immediately available until the patient is discharged from anesthesia care for diagnosis, treatment and management of anesthesia-related complications or emergencies.
 - (d) Assure provision of appropriate post-anesthesia care.
- Sec.12.(d) A practitioner who performs ~~or supervises~~ a procedure in an office-based setting that requires anesthesia must have the following:
 - (1) admitting privileges at a nearby hospital;
 - (2) a transfer agreement with another practitioner who has admitting privileges at a nearby hospital; or
 - (3) an emergency transfer agreement with a nearby hospital.
- Sec.12.(e) A practitioner shall obtain, in writing, a patient's informed consent for the nature and objectives of the anesthesia planned and procedure to be performed before it is performed. **If a CRNA is providing the anesthesia, the CRNA shall obtain the consent for the anesthesia.** The informed consent shall be:
 - (1) obtained after a discussion of the risks, benefits and alternatives; and
 - (2) documented in the patient's medical record.
- Sec.12.(k) Practitioners performing ~~or supervising~~ procedures in an office-based setting that require anesthesia shall show competency by maintaining privileges at an accredited or licensed hospital or ambulatory surgical center, for the procedures they perform in the office setting. Alternatively, the governing body of the office-based setting is responsible for a peer review process for privileging practitioners based on nationally recognized credentialing standards.
- Sec.12.(l) Practitioners administering or supervising an **RN administering** anesthesia in an office-based setting shall have specific training in sedation, anesthesia and rescue techniques appropriate to the type of sedation or anesthesia being provided and to the procedure being performed. **This subsection does not apply if a CRNA is administering anesthesia.**
- Sec.13.(a) A practitioner who administers anesthesia in an office-based setting or performs ~~or supervises~~ a procedure that requires anesthesia in an office-based setting shall comply with the rules adopted under this article.

The Board thanked her for her comments.

Ms. Cierzniak addressed the Board. Ms. Cierzniak stated that the words "Direction" and "Supervision" haven't been defined by law in the State of Indiana in this context and they need to be.

Dr. Beeson stated that the Board has been mandated by Legislature to adopt a rule concerning Office Based Procedures using anesthesia and the comments today would be taken into consideration.

A meeting of interested parties was preliminary scheduled for August 23rd at 7:30 pm with the location TBD.

The Board thanked everyone for their comments.

There being no further business the meeting adjourned at 8:15 p.m.



William Beeson, M.D., Secretary